

REGISTER

South Dakota Legislative Research Council



Volume 30

Monday, 8:00 a.m., December 1, 2003

A COPY OF EACH REGISTER IS FILED IN THE OFFICE OF THE SECRETARY OF STATE

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Social Services: Office of Medical Services: (November 25, 2003) has filed rules to delete the requirement that a provider agency have a consumer advisory committee and instead require the agency to have a process for gathering consumer input; delete the requirement that an agency's case manager be a registered nurse and instead require that the case manager be able to provide the required case management services and be trained by the provider agency; require the case manager to review the consumer's service plan at least once every 12 months, instead of once every 6 months, and allow the consumer to request a review of the service plan; add chest physiotherapy, nebulizer therapy, and the application of topical medications to those personal attendant services that may be covered by the ADLS Program; cover ventilator management and tracheostomy care only if the personal attendant providing the care is a member of the consumer's family; require a consumer preparation specialist to be an employee of a provider agency and be able to provide the required services; require private duty nursing services to be provided under the direction of the consumer's physician; update procedure codes; delete payment rates from the rules and specify that the Department of Human Services will establish the rates in their contract with the provider agency; allow a provider agency to terminate services if the consumer fails to comply with an agreement to deliver services; clarify those instances for which a written notice of adverse action will be sent to

the consumer and specify that the notice of adverse action will constitute the final decision for purposes of a fair hearing if the consumer does not make a timely request for a conference; clarify those circumstances under which a consumer may request a conference and specify that the consumer must request the conference within 15 days after the notice of adverse action is sent to the consumer. The general authority for these rules, as cited by the department, is SDCL 28-6-1.

A public hearing will be held in Conference Room # 1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on Tuesday, December 16, 2003, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Wellhouse may be contacted by telephone at (605) 773-3305. Written comments must be received by December 26, 2003, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the Department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3305 at least 48 hours before the hearing.

**FILINGS IN THE SECRETARY OF
STATE'S OFFICE:****Administrative Rules: None****Attorney General Appointments:**

Martin J. Jackley was appointed Special Assistant Attorney General on November 20, 2003, nunc pro tunc, July 1, 2002.

Executive Appointments:

Dr. Mark Steiner, Pierre, was appointed on November 24, 2003, to the **Board of Chiropractic Examiners**, to replace Dr. Bradley Schmidt, effective January 2, 2004, and shall continue until January 1, 2007.

Daniel Hartman, Spearfish, was appointed on November 24, 2003, to the **State Plumbing Commission**, to replace Shane Sheesley, effective immediately and shall continue until April 14, 2006.

Roland A. Benson, Fort Pierre, was appointed on November 24, 2003, to the **Veterans Commission**, to replace Keith Goodhope, effective immediately and shall continue until October 1, 2005.

Nancy Ekstrum, Philip, was appointed on November 24, 2003, to the **South Dakota Real Estate Commission**, to replace Judy Wittrig, effective immediately and shall continue until April 11, 2004.

David Law, Watertown, was appointed on November 24, 2003, to the **South Dakota Board of Directors for Educational Telecommunications**, to replace Charles "Eddie" Clay, effective immediately and shall continue until July 1, 2006.

Mark Shlanta, Sioux Falls, was appointed on November 24, 2003, to the **South Dakota Board of Directors for Educational Telecommunications**, to replace Dean

Sorenson, effective immediately and shall continue until July 1, 2006.

Glenda Woodburn, Pierre, was appointed on November 24, 2003, to the **South Dakota Board of Directors for Educational Telecommunications**, to replace Eileen Fischer, effective immediately and shall continue until July 1, 2006.

Kay Jorgenson, Spearfish, was appointed on November 24, 2003, to the **South Dakota Board of Directors for Educational Telecommunications**, to replace Dr. Tony Berg, effective immediately and shall continue until July 1, 2006.

Executive Orders:

The Governor has signed **Executive Order 2003-10** dated November 24, 2003. This order establishes the South Dakota Commission on Child Support.

The Governor has signed **Executive Order 2003-11** dated November 24, 2003. This order amends Executive Order 1996-09 and modifies the Governor's Commission on Fort Sisseton.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Commerce and Regulation for commercial driver licensing, the Department of Labor for Article 47:03, and the Department of Revenue.

REMINDER OF HEARINGS SCHEDULED

12-4-2003	Revenue and Regulation: Appraisers	Amend rules to describe the appropriate use of titles in advertising, remove the varying requirements for return to active status, update references to the Uniform Standards of Professional Appraisal Practice, and defer continuing education requirements for reciprocal appraisers if they are duly licensed or certified in their state of domicile; 30 SDR 84.
12-5-2003	Public Safety: Office of Emergency Medical Services	Adopt and amend rules to define terms and update licensing, personnel, and equipment requirements for ambulance services; 30 SDR 78.
12-9-2003	Social Services: Crime Victims' Compensation Commission	Amend rules to update and clarify existing rules; implement form and style changes; repeal rules that are not necessary or that duplicate existing statutory provisions; define terms; establish eligibility criteria, limits on covered services, payment methodology, and payment rates; specify those circumstances when compensation is not allowed; limit the length of time records are kept; establish good cause criteria; require Commission approval for payment of certain services; in certain circumstances, allow the payment of witness fees; allow the Commission to approve amounts in excess of established limits; allow the Department or the Commission to reduce payments under certain circumstances; require substantiation of claims; specify that the Department will make payments directly to the service provider and consider the Department's payment to be payment in full unless certain additional circumstances exist; and establish the procedure to be followed when a claimant requests a hearing by the Commission for purposes of reviewing a claim for compensation, including service of the Notice of Hearing, the issuing of subpoenas, the process to be followed if a claimant fails or is unable to attend the hearing, and the final decision and notice; 30 SDR 87.
12-10-2003	Revenue and Regulation: Commission on Gaming	Adopt a variation of play for STREAK blackjack; add to definitions of slot machine testing, approval, and modifications "on-line monitoring and control system" and

		"redemption kiosks"; prohibit the sale of slot machines by Deadwood casinos unless purchaser is regulated by gaming agency that has agreement with the South Dakota Commission regarding exchange of information on licensees and/or applicants; clarify that certain parts and associated equipment can effect and trigger revenue reporting; adding to the definition of associated equipment to include "redemption kiosks" and "on-line monitoring and control systems"; redefine gross revenue to include hand pay credit lockups and vouchers; recognize situations where vouchers are not redeemed; require accounting of the liability associated with vouchers and paper tickets; repeal provisions dealing with unclaimed jackpots and unredeemed vouchers; add cage count provisions to the gaming revenue collection and count schedule audit requirements; and eliminate the requirement that engagement slips be signed by both the owner or trainer and the jockey or jockey's agent; 30 SDR 83.
12-11-2003	Agriculture: State Fair	Amend rules to create a definition of "Fair Week" and conform the rules to recent statutory changes which vested control of the State Fair to the Secretary of Agriculture; 30 SDR 78.
12-11-2003	Game, Fish and Parks	Amend rules to prohibit possession of uncased firearms at Kelly's Cove Fishing Access Area located along the James River east of Yankton and change the designation of the Mission Hill Game Production Area to a Fishing Access area, and prohibit the taking of more than 1 walleye, sauger, or walley-sauger hybrid 20 inches or greater in length daily from Campbell Slough; 30 SDR 88.
12-12-2003	Tourism and State Development: State Historical Society	Adopt and amend rules to set standard fees for photographic shipping and handling and processing and clarify non-governmental use of the Cultural Heritage Center; 30 SDR 83.
12-16-2003	Social Services: Medical Services	Amend rules regarding eligibility of a provider agency; the qualifications of a case manager; covered services required by case management and personal attendant; qualifications and duties of consumer preparation specialist; requires private nurses to be under the

		direction of the consumer's physician; adopts uniform national codes for procedures and eliminates the set payment rates; allow provider agency to terminate services; clarifies the procedures for notice of adverse action; clarify time frames for conference with staff from the Department of Human Services or Department of Social Services; and change the term "client" to "consumer;" 30 SDR 93.
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Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, December 2, 2003, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting for the remainder of the interim: January 12, 2004.

Agencies whose rules have had a public hearing will be scheduled to meet with the Rules Review Committee and are asked to have a representative present at the meeting to give background information on their rules.

Note: An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the LRC web site.

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 29 are \$20. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at <http://legis.state.sd.us>. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at **MyLRC** (<http://legis.state.sd.us/mylrc/index.cfm>).